



BILLING CODE: 4510HT

DEPARTMENT OF LABOR

Benefits Review Board

20 CFR Part 802

RIN 1290-AA32

Change of Mailing Address for the Benefits Review Board

AGENCY: Benefits Review Board, Labor.

ACTION: Final rule; technical amendment.

SUMMARY: This rule amends one section of the Benefits Review Board's regulations in order to change the mailing address for notices of appeal and correspondence sent to the Board.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Shepherd, Clerk of the Appellate Boards, at 202-693-6319 or Shepherd.Thomas@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 7, 1997, the Department issued a technical amendment to 20 CFR 802.204 to include a U.S. Post Office Box mailing address for filing notices of appeal with the Board. 62 FR 10666. The Department added the P.O. Box to augment timely receipt of incoming mail. Over time, the Department has found this supplemental process is not needed to ensure the timely receipt of mail. Therefore, to save costs, the

Department is eliminating the P.O. Box and amending its regulations to direct that all notices of appeal and correspondence filed by mail be sent directly to the Board's offices in the Frances Perkins Department of Labor Building in Washington, D.C. This document amends the relevant section in the Code of Federal Regulations governing the procedural rules of the Board in order to present the new mailing address.

II. Statutory Authority

This rule is promulgated by the Secretary of Labor under the authority of 5 U.S.C. 301, as well as the Black Lung Benefits Act, 30 U.S.C. 901 *et seq.*, and the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 *et seq.*

III. Rulemaking Analyses

A. Administrative Procedure Act

Section 553(b)(3) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3), provides that an agency is not required to publish a notice of proposed rulemaking in the Federal Register for "rules of agency organization, procedure, or practice." 5 U.S.C. 553(b)(3)(A). Rules are also exempt when an agency finds "good cause" that notice and comment rulemaking procedures would be "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B). The Department has determined that this rulemaking meets the notice and comment exemption requirements in 5 U.S.C. 553(b)(3)(A) and (B). The Department's revision makes a technical and non-substantive change to the rules of procedure before the Benefits Review Board and does not alter any substantive standard. The Department does not believe that public comment is necessary for this minor revision.

B. Regulatory Flexibility Act, Unfunded Mandates Reform Act, and Small Business Regulatory Enforcement Fairness Act

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the APA, the requirements of the Regulatory Flexibility Act at 5 U.S.C. 601(2) do not apply to this rule, and the rule is not subject to sections 202 or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532 and 1535). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate as described in sections 203 and 204 of the UMRA (2 U.S.C. 1533 and 1534).

This action is further not classified as a “rule” under Chapter 8 of the Small Business Regulatory Enforcement Fairness Act of 1996, because it pertains to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

C. Paperwork Reduction Act

This rule does not contain a collection of information requirements subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

D. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999). This rule does not have federalism implications as outlined in E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

E. Executive Order 13175, Indian Tribal Governments

The Department has reviewed this rule under the terms of Executive Order 13175 (65 FR 67249, November 6, 2000) and determined it does not have “tribal implications.” The rule does not have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” As a result, no Tribal summary impact statement has been prepared.

F. Executive Order 12866 and Executive Order 13771

This rule has been drafted and reviewed in accordance with Executive Order 12866. The rule is not a “significant regulatory action” as defined by section 3(f) of the order. Accordingly, there is no requirement for an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866. In addition, this rule is not an EO 13771 regulatory action because this rule is not significant under EO 12866.

List of Subjects in 20 CFR Part 802

Administrative practice and procedure, Black lung benefits, Longshore and harbor workers, Workers’ compensation.

For the reasons set forth above, the Department of Labor amends 20 CFR part 802 as follows:

PART 802—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 802 is revised to read as follows:

AUTHORITY: 5 U.S.C. 301; 30 U.S.C. 901 *et seq.*; 33 U.S.C. 901 *et seq.*;

Reorganization Plan No. 6 of 1950, 15 FR 3174; Secretary of Labor's Order 03-2006, 71 FR 4219, January 25, 2006.

2. Section 802.204 is revised to read as follows:

§ 802.204 Place for filing notice of appeal and correspondence.

Any notice of appeal or other correspondence filed by mail shall be sent to the U.S. Department of Labor, Benefits Review Board, ATTN: Office of the Clerk of the Appellate Boards (OCAB), 200 Constitution Ave., N.W., Washington, DC 20210-0001. Notices of appeal or other correspondence may be otherwise presented to the Clerk. A copy of the notice of appeal shall be served on the deputy commissioner who filed the decision or order being appealed and on all other parties by the party who files a notice of appeal. Proof of service of the notice of appeal on the deputy commissioner and other parties shall be included with the notice of appeal.

Signed at Washington, DC, this 15th day of February, 2018.

R. Alexander Acosta,

Secretary, Department of Labor.

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